

Attorney Docket No. 014354/0003  
(B67587)

# REMARKS

In an Office Action mailed September 26, 2003 (Paper No. 6), claims 1, 2, 4, 6-14, 16-17, 19, and 20 were rejected under 35 U.S.C. 103(a) as being unpatentable over Hosoyama (US Patent 4,841,442) in view of Coutts et al. (US 6,311,165). Claims 3 and 18 were rejected under 35 U.S.C. 103(a) as being unpatentable over Hosoyama (US Patent 4,841,442) in view of Coutts et al. (US 6,311,165) and further in view of AN (IEE OPOS (USPOS)\* Compatible Pole Display Software). Claims 5 and 15 were rejected under 35 U.S.C. 103(a) as being unpatentable over Hosoyama (US Patent 4,841,442) in view of Coutts et al. (US 6,311,165) and further in view of Ishii (POS accumulation managing device). These rejections are respectfully traversed.

Claims 1, 2, 4, 6-14, 16-17, 19, and 20 were rejected under 35 U.S.C. 103(a) as being unpatentable over Hosoyama (US Patent 4,841,442) in view of Coutts et al. (US 6,311,165). In particular, it is alleged that Hosoyama discloses "the plurality of devices from different manufacturers (POS system, col 2, ln 1-35/scanning, editing, printing; col. 4, ln. 1-45). This rejection is respectfully traversed.

Hosoyama (US Patent 4,841,442) in view of Coutts et al. (US 6,311,165) fails to provide a prima facie basis for the rejection of claims 1, 2, 4, 6-14, 16-17, 19, and 20, because they fail to disclose each element of the claimed invention. For example, claim 1 includes "a device programming system operable to program a plurality of point of sale devices; a communications interface coupled to the device programming system, the communications interface operable to receive update requests from the plurality of devices; and wherein the plurality of devices includes devices having proprietary operating systems from two or more different manufacturers." Contrary to the assertion that Hosoyama discloses "the plurality of devices from different manufacturers," in fact, Hosoyama discloses at col. 3, lines 12-15 that the "construction of each of the POS terminals 1 is the same, as is the construction of each of the controllers 2 and 2'." Thus, the plurality of POS devices of Hosoyama are not from different manufacturers, such that they would have proprietary operating systems from two or more manufacturers, but must be the same. Because Hosoyama discloses that all of the POS are the same and thus have the same proprietary operating system, there would be no motivation for combining Hosoyama with Coutts.

Attorney Docket No. 014354/0003  
(B67587)

It is further alleged that Hosoyama discloses "update requests (the text, col. 5, ln 10-65/ col 6, ln 10-67/ col 7, ln 1-67)." A detailed review of those extensive cited sections of Hosoyama, as well as the rest of Hosoyama, reveals that there are no "update requests [received] from the plurality of devices." Instead, Hosoyama discloses a system in which such update requests are not required. As described in Hosoyama at col. 1, line 67 to col. 2, line 12, "Further, to *require each POS terminal to contain the PLU table greatly increases the cost of the POS system*. . . . Accordingly, it is an object of the invention to provide a POS system in which the *central computer* contains the PLU table and *each POS terminal obtains article data from the central computer at the time of sale*, thereby realizing central control of the management of the PLU table, enabling *updating of the PLU table at the central computer to be immediately and easily performed* from individual POS terminals, and the result of such updating to be immediately reflected at all other POS terminals in the POS system." Thus, the system of Hosoyama, far from including POS terminals that generate an update request and that are programmed in response, instead stores all PLU table data in a central location and provides the PLU data to each POS terminal when it is needed. Again, there would be no motivation for combining Hosoyama with any art that would update individual POS terminals, as the system of Hosoyama is designed to avoid the need for such expensive and time consuming updates of PLU tables.

The remaining bases for rejection of claims 2, 4, 6-14, 16-17, and 19-20 are similarly flawed, primarily because the objective of the Hosoyama system was to avoid the need for updating the price look-up table at each POS terminal, thus seeking ways to eliminate the need for "a device programming system operable to program a plurality of point of sale devices; a communications interface coupled to the device programming system, the communications interface operable to receive update requests from the plurality of devices; and wherein the plurality of devices includes devices having proprietary operating systems from two or more different manufacturers." For example, claim 2 includes the "system of claim 1 wherein the device programming system further comprises has a device update file for each of the plurality of point of sale devices." It is alleged that this device update file for each of the plurality of point of sale devices is disclosed as col. 7, lines 5-67 of Hosoyama by "the PLU data changing position," but this is not a device file update, but rather the change of "the mode selection key 130b in the key input portion 130 of the POS terminal 1 is set to the PLU data changing position." As can be clearly seen in Figure 4 of



Attorney Docket No. 014354/0003  
(B67587)

8, which includes "the device programming system further comprises a device update system operable to provide configuration data updates to the plurality of point of sale devices." All of the sections cited by the Examiner refer to operations that are performed at the central processor of Hosoyama, and not at each of the POS terminals by the central processor.

Claim 9 includes "the device programming system further comprises a device analytical system operable to perform troubleshooting for the plurality of point of sale devices." The section of Hosoyama cited by the examiner refers only to the central processor of Hosoyama responding to an inquiry from a POS terminal – the central processor of Hosoyama contains no device analytical system operable to perform troubleshooting for the plurality of point of sale devices. The only way a problem could be detected with the POS terminals of Hosoyama would be if an operator of the POS terminal detected the problem – the central processor of Hosoyama has no way of determining whether a POS terminal is malfunctioning. In fact, the only such troubleshooting that is performed in Hosoyama is on the processor itself, see col. 3, lines 21-26: "a release processing portion 25 for processing a release process when a controller malfunctions, and polling supervisory portion 24 for supervising a polling signal generated at the controller and checking whether the controller is in a normal condition or in a failure condition, etc." If a controller malfunctions, then operations switch to the backup controller 2'. Troubleshooting of the POS terminals of Hosoyama is not even suggested.

Claim 10 includes a "method for programming point of sale devices comprising: receiving a programming request for a point of sale device; determining which of two or more proprietary operating systems is used by the point of sale device; and transmitting the programming request to the point of sale device based on the proprietary operating system used by the point of sale device."

As previously described, the POS terminals of Hosoyama are identical and contain identical operating systems that are implemented as *read only memories*. There is no way to program the POS terminals of Hosoyama, so there is no need to receive a programming request for a point of sale device, no way to determine which of two or more proprietary operating systems is used by the point of sale device, and no way to transmit the programming request to the point of sale device based on the proprietary operating system used by the point of sale device. Thus, there is no motivation to combine the system of Coutts with Hosoyama.

Attorney Docket No. 014354/0003  
(B67587)

The rejections of claims 11-13 are improper for reasons discussed above in regards to claims 7, 8, and 4, respectively. The rejection of claim 14 is improper for reasons discussed above in regards to the POS terminals of Hosoyama being identical and possessing *read only memories*.

Claim 17 includes a "method for managing a plurality of point-of-sale devices comprising: storing a file for each point of sale device, each file containing device operating commands; retrieving one of the files in response to a programming request for a corresponding device; and transmitting the file to the corresponding device." Contrary to the assertion by the Examiner that "Hosoyama teaches a file (the PLU file 26, col. 3, ln 5-37), for each point of sale devices (the POS terminals 1, col 3, ln 5-37)," it is clear from the previously cited sections of Hosoyama that the PLU table is centrally stored to avoid the cost and complexity associated with distributing the PLU table to each POS device.

Claims 19 and 20 depend from claim 17, and are allowable at least for the reasons that they each depend from an allowable base claim, and add limitations not found in the prior art. Withdrawal of the rejections of claims 1, 2, 4, 7-14, 16-17, 19, and 20 is respectfully requested.

Claims 3 and 18 were rejected under 35 U.S.C. 103(a) as being unpatentable over Hosoyama (US Patent 4,841,442) in view of Coutts et al. (US 6,311,165) and further in view of AN (IEE OPOS (USPOS)\* Compatible Pole Display Software).

Claim 3 includes "a device update file for each of a plurality of classes of point of sale devices." Not only are the POS terminals of Hosoyama unable to be updated because of their *read only memories*, but they are each identical and thus it is impossible for there to be plurality of classes of point of sale devices.

Claim 18 includes the "method of claim 17 wherein storing the file for each point of sale device comprises: creating two or more classes of files for the point of sale devices based upon the proprietary operating systems used by the point of sale devices; creating at least one class of rules for the point of sale devices based upon the users of the point of sale devices; applying the class of rules to the two or more classes of files; and storing each file for each point of sale device." The Examiner alleges that AN discloses a device class, and that it would have been obvious to apply Hosoyama to the device classes of AN to "provide an open device driver architecture that allow Point of sale hardware to easily integrated into POS systems." However, in addition to the numerous shortcomings of Hosoyama that have already been noted, AN would also fail to be

Attorney Docket No. 014354/0003  
(B67587)

combinable with a hypothetical reference that discloses what Hosoyama is alleged to disclose, assuming arguendo that such a reference ever existed, to yield "creating two or more classes of files for the point of sale devices based upon the proprietary operating systems used by the point of sale devices." As stated in AN, "Object Linking and Embedding (OLE) for Retail POS provides an open device driver architecture that allows Point-of-Sale (POS) hardware to be easily integrated into POS systems based on Microsoft Windows 95, 98 and Microsoft Windows NT. Other operating systems can also support OLE for Retail POS depending on software provided by the hardware manufacturer or third party developers. . . . A Device Class is a category of POS devices that share a consistent set of properties, capabilities, and functions." It is clear from the cited sections of AN that OLE for Retail POS is designed to be *independent of the operating system!* Why would "two or more classes of files [be created] for the point of sale devices based upon the proprietary operating systems used by the point of sale devices," when the whole purpose in designing OLE for Retail POS was to develop classes that can be used independently of the operating system? Withdrawal of the rejection of claims 3 and 18 is respectfully requested.

Claim 5 has been canceled without prejudice or disclaimer. Claim 15 was rejected under 35 U.S.C. 103(a) as being unpatentable over Hosoyama (US Patent 4,841,442) in view of Coutts et al. (US 6,311,165) and further in view of Ishii (POS accumulation managing device). Claim 15 depends from claim 10 and is allowable at least for the reasons that it depends from an allowable base claim and adds limitations not found in the prior art. Withdrawal of the rejection of claim 15 is respectfully requested.

New claims 21 and 22 have been added to further describe embodiments of the invention of commercial interest to applicants.

Attorney Docket No. 014354/0003  
(B67587)

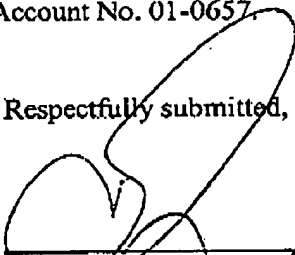
CONCLUSION

In view of the foregoing remarks and for various other readily-apparent reasons, Applicants submit that claims 1-4 and 7-22 are allowable and a Notice of Allowance is courteously solicited. If any impediment to the allowance of the claims remains after consideration of this amendment, a telephone interview with the Examiner is respectfully requested with the undersigned at (214) 969-4669 so that such issues may be resolved as expeditiously as possible.

No additional fees are believed due at this time. The Commissioner of Patents is authorized to deduct these fees, along with any additional fees deemed owing, or credit any overpayment to the Akin, Gump, Strauss, Hauer & Feld Deposit Account No. 01-0657.

Respectfully submitted,

Date: 12/16/03

  
\_\_\_\_\_  
Christopher J. Rourke  
Registration No. 39,348  
Attorney for Applicants

AKIN, GUMP, STRAUSS, HAUER & FELD, L.L.P.  
P.O. Box 688  
Dallas, Texas 75313-0688  
(214) 969-4669